

16

מדינת ישראל

משרד הממשלה

179/26

מס' לז

משרד

מקור: 179/26
מס' לז (1934)

תיק מס'

מחלקה

מדינת ישראל
ארכיון המדינה



שם תיק: Estimates 1947/48 - War Services -
אומדנים - 1947/48 שירותי המלחמה

מ-179/26

מזהה פריט: 00100uy

מנובת: 2-112-4-6-8

20/04/2016

נאריך הדפס

לא דשמיים

112-0-2-4

SAAD il DIN TABRY

~.

IBRAHIM GHUSSEIN .

מקדח ב' א' נ' ח'
ב' א' נ' ח'
(1934)

517

510

في الجهد الرعي لعدد لدينا في محكمة طولكم الرعية فرت الحجة على الرجل المكلف من عا عا به كمودبه
 طه الياسيه من هاتى قرية مسكه الثانية لقضاء طولكم الفائب عنه المجلس ومنه منه
 الكلفات العلوية في اموال المتكلم وعند المتكلم ومنه الأقرار في الدية لاهدا وانف
 عليه خيا شعبة عارف به كمود طه الياسيه من هاتى القرية المذكورة بطل ما يجوز
 به الفقيه من عا عا البيع اذ الرهبة والعنة الا باذنه رعي صادر من محكمة الرعية
 واصحابه ينبغي الله تعالى في امره والعلاية قبل منا ونزل بحسب الفهم خيا هذنت حصة
 لوجه الله تعالى وانفقا، رضائه بما فيه المظن والمصلحة لجهة المحجور عليه عا هذه المرقوم
 هذا بعد ان يخصنا على النهج الرعي احاسنة واقدا راعى الصيام بأمر الفقيه ولعبانه
 ثبت ايضا لدينا ونخص من اجابرا والمجديرة الثقة ومنه مضطرة هيئة اختيارية
 الرعية المذكورة اسراف وببذير عا هذه المرقوم لما يتلذذ به ويعينه عا خلاف
 مطلق الرعي والقد تحريرا في اليوم الحاد والقرية منه كمود عا هذه المرقوم
 ومن الامانة واكثره وعنده كمود به ١٠١٠ بول شعبة ١٠١٠ ميلاد به

their grounds:

- (1) no attachment twice
- (2) first judgment by default.
- (3) Ibrahim Nijem knew of second contract.
- (4) Judgment satisfied by compromise. -

Why attachment lifted?

11. 2. 34 Judgment obtained
by G v. A in default.
During action A was interdicted.
Judgment served on his
curator. Filed in Ex. Office
before served. —

29. 5. 34: Interdiction lifted.

29. 9. 34. application by G
for attachment.

30. 9. 34 attachment ordered.

13. 12. 34 attachment raised
by G.

7. 11. 34 A makes contract
with S. for sale of land

17. 2. 35 S obtains judgment
v. A in respect of contract,
and confirmation of
conservatory attachment.

20.9.35 G obtains
participation in attachment
7/8.

Now S claims priority. -

Now G to claim priority.

judgment by default: Mt. 22

1) Cof = $\frac{HP}{31}$ asthetics of creator --
P.L.R. 678

2) Release of attachment should only operate
conditionally so that in case of non-
payment there is nothing to prevent
such person ~~ordering~~ asking
for an attachment. —

3) $\frac{88}{30}$ P.L.R. P. 644

-1-

Aref Taha 'Ahed Taha

Taher Asfkar
Ali Shehadeh Jayoussi
Wimmer Abou Dabbah } simple
contract
dated
29.6.33

to buy from 'Ahed to buy
all his properties at L.S.
the downum & they pay him
H. 50 on a/c.

Contract transferred ^{on 2.7.33} by way
of security to Ibrahim
ghussein who makes
action ^{on} against 'Ahed for
3000 ramaqs & 50.
during pendency, 'Ahed

interdicted on 10.9.33.

published in newspapers
action compromised between

Guardian & P.L. on basis
that P.L. should take $\frac{1}{2}$ of
land: action to continue.
36 parcel is transferred,

11/2/34

judgment not to be executed.
Ibrahim Nijem made contract
of sale between him &
the three persons. - on 11.2.34
Hussein took judgment by
default. - served on Ahd
on 29/5/34 before interdiction. Served
on Ahd & produced

Return
of service in Ex. Office within six
months. Notice from Ex. Office on 9/6/34
written by said Araf in his representative
capacity asked for seizure on 29/9/34.
Hussein ~~confirmed~~ seizure ordered on 30/9/34

Interdiction lifted. Ahd on
8/11/34 gave power of attorney
to Hussein Faber &
Soud Zeid to transfer
1/2 land to Ibrahim
Nijem + other plots
to his brother Araf.
Raised attachment on 13/12/34

Simple
contract
7.11.34

Transfer made to Ibrahim,
Saad il Din Jabri made
contract ^{on 7/11/34} with Ahmed to
buy all his properties:
deposit of £1,800 =

Ahmed
1 Attempted
action
served on
5/1/35.
Judgment
on 17/2/35
Ham

damages £2,000.
Saad il Din takes judgment
by default against
Ahmed for £2,800. -

Saad il Din executed
attachment for 2,800
on properties of T.D.

Ghursein obtained ^{on 20/9/35}
participation in attachment.

Saad il Din + Ahmed
presented objections to
attachment on ground
that judgment against
Ahmed satisfied.
Now, Saad il Din asks
for preference. -

1. The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is one of the most important and interesting in the history of science.

2. PROBLEM

The second part of the paper is devoted to a detailed discussion of the problem of the origin of life. It is shown that the problem is one of the most important and interesting in the history of science.

ADVOCATE

P.O. BOX

JAFFA - PALESTINE

الحامي
ابراهيم نجم

١٢١١ القانون

مستدوق العرب

یافا (فلسطین) شارع بسترسی فی ۹۶/۱/۹۶

سعادة رئيس اجرة يا ف المحرم

٢- السيد/عبد

ب۔ الحشر مسجد

والتزوية، والتضياع، فانه على مقدار لزوجاته ان يكونوا الذين كانه نصب للزفة عند عاصه في امته
م على توكيد انه حوريه وانه الذي نصب وعينه فهو مستلويه في نفسه.

و نه هم که اعداد با هم مساویند علم کنید که ای مقابل

بدل الزاوية بدلي بمثلها وحده.

: web, cris : web,

[illegible]

وتمت
٢٦/٢١

உரு

- ۱ - مسئلہ جدید جدید مدیفا
- ۲ - طاهرہ اوستقہ مدیکہ
- ۳ - عمی بنجدہ البوس مدیکہ
- ۴ - نرا ابوغبہ مدیفا
- ۵ - عاصد محمود مدیکہ
- ۶ - عارف محمود مدیکہ
- ۷ - فایز انفا کفانی مدیفا
- ۸ - سیدہ انفا بوقرانیہ مدیکہ
- ۹ - خدیجہ انفا جہور مدیفا
- ۱۰ - احمد مدلی المند مدیفا
- ۱۱ - ابرہیم الدی مدیکہ
- ۱۲ - سیدہ انفا بوقرانیہ مدیفا
- ۱۳ - ابرہیم بن المند مدیکہ

Copied

His Honour,
The Chief Execution Officer,
Jaffa.

Your Honour,

2563/34
Execution Files 1447/35

Applicant:- Sa'del Din Jabri

On 23.9.35. Ibrahim Nijem, the advocate applied to participate in the attachment made in my favour in file No. 1447/35. this was in his file No. 2563/34., and his application was granted.

I objected to the said application and the order given thereon for the following reasons:-

1. On 30.9.34. Your Honour gave an order in file No. 2563/34. as to the attachment of all the property of A'hed Mahmoud Taha at the request of Ibrahim Nijem the Attorney for Judgment-Creditor.
2. On 8.11.34. a Power of Attorney was executed before the Notary Public, Jaffa, No. 1895, signed by A'hed Mahmoud Taha, the Judgment debtor, which was drawn up by Ibrahim Nijem joined with Suliman Abu Ghazaleh a certified copy of which is produced herewith. On perusal of this Power of Attorney you will observe that the said judgment debtor A'hed has thereby sold all his property, which was attached by the said Ibrahim Nijem, as stated in para 1 above.

I do not like to disclose the shameful facts as to how this was Power of Attorney was obtained, but precisely explain the matter concerning me thus.

- (a) It is quite clear that the application for attachment of the said property was made by Ibrahim Nijem on 30.9.34. and by his own handwriting.
- (b) It is also quite clear that Ibrahim Nijem has drawn or did take part in the said Power of Attorney as long as he is a party therein, and for the reason that part of the property was sold to him.

Therefore, the consent of Ibrahim Nijem to this Power of Attorney on 8.11.34. after laying the attachment on the property of the judgment debtor on 30.9.34., shows nothing but the following:-

- (a) Ibrahim Nijem did not in fact pay the purchase price as ~~not~~ detailed in the said Power of Attorney to the said A'hed (vendor) but this sale to him was by way of compromise as to the judgment debt, else he would have collected the judgment debt from him by way of sale in public auction.
- (b) Ibrahim Nijem, who is an advocate, did neglect the duties towards his client, did make conspiracy with Sheikh Aref Taha & Suliman Abu Ghazaleh in consideration of a certain benefit and kept quiet as to the sale of the remaining property of the judgment debtor.

On the assumption that he kept quiet for the sale of the attached property - this does not mean that the attachment is released.

The reply to this, Your Honour is aware, is that by so doing he created or caused to be created a great amount of debts owing from A'hed which fact causes great damages and inconvenience to his own client, the judgment creditor in whose favour the attachment was made, which fact was if not made by him personally it should have been made through his own knowledge.

Copy

Your Honour would discover the conspiracy or the fool played played jointly by both mentioned advocates together with Miss. Fauzieh Tabbora, Izzat Tabbora's (Police Inspector) sister, ~~butxxxxxx~~ the relation between the latter and Ibrahim Nijem is a well known fact.

(c) Ibrahim Nijem has made a settlement with Sheikh Aref who alleged to be a curator of A'hed Taha in consequence of which allegation the service of all execution formalities were served upon him by way of conspiracy. This settlement, as appears, is that A'hed should transfer to both Ibrahim Nijem and Fauzieh Tabbara his share in the land known as "Khatiyeh" and that Sheikh Aref to transfer his own share in the said land to the latter 2 persons.

(d) In fact the said transfers were effected at the Land Registry Office on 10.11.34. i.e. one day after the execution of the Power of Attorney.

It is well known fact that in virtue of ~~the~~ the said Power of Attorney no transfer could have been made on the next day unless and until the transaction was ready and completed before execution of the ~~judgment~~ Power of Attorney, which shows the bad faith on the part of the said Ibrahim Nijem as for the execution of the judgment by way of illegal steps as taken in file No. 2563/34 (such proceedings I leave for A'hed to explain separately).

(e) Up to the present date the terms of the present said Power of Attorney were never complied with.

3. Two days before the execution of the Power of Attorney I have purchased 45 dunums of land out of the attached property in virtue of a contract dated 6.11.34., which contract was drawn up by and in the office of Ibrahim Nijem.

4. During the period to complete the transaction for the transfer of the said 45 dunums I found same to be attached by Ibrahim Nijem on behalf of his client the judgment debtor and on enquiry from him, he proceeded to the Execution Office personally on 13.12.34. and applied to have the attachment laid on all the property of A'hed cancelled.

Your Honour did grant the application on the same date and a note to this effect was sent to the Land Registry Office where it was received on the 15.12.35. and filed in the dossier regarding my purchase.

(a) Could Ibrahim Nijem explain why did he cancel the attachment on 13.12.34. - could he mention the real facts as to why he did so ?.

Could Your Honour conclude something else other than what proves my allegation to the effect that the judgment lodged for execution in file No. 2563/34. was in fact executed by way of conspiracy through the heroes mentioned in this application; in the 1st. instant and in the 2nd. inst. a settlement therefore took place.

from the facts shown in this application as well as those detailed in the application submitted by A'hed the judgment debtor Your Honour will come, no doubt, to the conclusion that the said judgment cannot be executed.

(b) Could Ibrahim Nijem explain the reasons why he kept silent for a period of 10 months i.e. the period between the dates of cancellation of the attachment and his recent application for attachment of the same property.

- I. It is quiet clear that during my services at his office as a clerk and a friend of his, for a period of 5 years, he had seen the case I brought against A'hed (Execution file No. 1474/35) and he himself who has made up the application for provisional attachment, was present on the date of trial, ~~xxxxxxxxxxxxxxxxxxxx~~ did assist my attorney during trial, he also must have seen the proceedings of sale of the property in public auction during a period of 4 months.
- II. His silence during all this period in spite of the fact that the property was sold or was being sold in public auction shows clearly that the judgment in favour of his client was settled as stated hereinabove.
This means that before and until his recent application for the re-attachment of the said property, he was, as an advocate, acting in good faith but;
- III. On 1.8.35. a dispute took place between me and him in consequence of which I found that it is in my interest to leave him and do my own work separately.

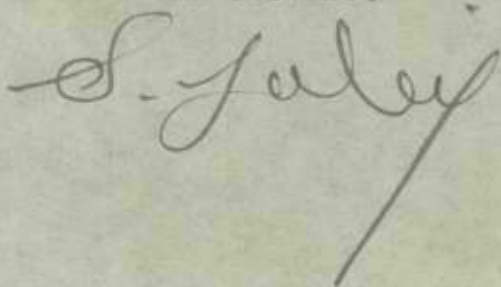
During September 1935 I was called by the Dist. Supt. of Police, Jaffa, where I was asked to give a statement in connection with the case of one named "Jarbou" (which Your Honour is quite aware of) and gave a statement satisfying my conscience, showing the play taken by I. Nijem in that case, which I believe caused him to go on the next morning to the Execution Office and participate in the attachment in my dossier in order to decrease the amounts due to me.

Therefore owing to the existence of the sorts for the conspiracy as for the application for execution of the judgment in participation with my judgment, and owing to the doubt as to the fact that his judgment still exists, I beg to apply that the order of participation with the attachment applied by ~~me~~ me be cancelled.

I am aware, Your Honour, that all the contents of this application is based on facts and such facts are established by acts some of which I was able to trace & which I produce now.

In case Your Honour is not satisfied with all this I beg to apply for execution sitting to enable me to put forward my oral evidence. My witnesses are named hereunder:-

I have the honour to be,
Sir,
Your obedient servant.



WITNESSES.

4-11-35

1. Ibrahim Nijem, Advocate, Jaffa
2. Ibrahim Ghosein, Ramleh
3. Soliman Abu Ghazaleh, Advocate, Jaffa
4. Adel Zueiter, Advocate, Nablus
5. Saeed Zeid, Advocate, Nablus
6. Izzat Tabbara, Police Inspector, Jaffa

I have been thinking about you a great deal lately, and wondering how you are getting on. I hope you are well and happy. I have been very busy lately, but I always find time to think of my friends. I hope to hear from you soon.

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Yours truly,
J. J. J.

22-11-22

I have been thinking about you a great deal lately, and wondering how you are getting on. I hope you are well and happy. I have been very busy lately, but I always find time to think of my friends. I hope to hear from you soon.

Copy

His Honour,
The Chief Execution Officer,
J A F F A .

Execution file 2563/34.

Your Honour,

Applicant:- A'hed Mahmoud Taha, of Miskeh,
Tulkarem Sub-District.

I understood that Your Honour ordered the attachment to be laid on my immovable property on 23.9.35. on the application of advocate Ibrahim Nijem on behalf of Haj Ibrahim Bey El Ghusein.

Whereas the Execution Office cannot enforce the judgment produced in the above file, I beg to apply that the order for attachment of my property referred to above be cancelled, for the following reasons.

1. All the proceedings carried out in the said file, were contrary to law, which proceedings I only recently knew of.

(a) The case was instituted against me personally thus

Plaintiff:- Ibrahim Bey Ghosein, represented
by I. Nijim, advocate

Defendant:- A'hed Mahmoud Taha of Miskah village,
Tulkarem

- (b) The copies of the claim and the summonses were sent to me personally.

- (c) I did not appoint an attorney to appear on my behalf at the day of trial nor after.

- (d) The judgment was issued against me in default on 11.2.34 as appears from the said file.

Hence it is in default it should be served upon me directly unless my absence or death or insane is established- this also applies to the service of execution proceedings.

But on perusal of the execution file it is observed that:-

- I. The judgment of the District Court in this case was served upon a person named El Sheikh Araf Taha on 29.5.35. who alleges that he is my curator in my capacity as interdicted but was never served upon me.

I am not aware that I have been interdicted by any Court whatsoever, was never notified of any order for interdiction nor have ever been summoned to appear at any Court in connection with an action for interdiction.

The District Court was wrong in law by effecting service for the reason that no order for interdiction was produced to them during or after trial. No transaction was produced to them during to enable them to effect

*This is a copy
of a conference
Ct.*

Myo

1000

Mussein did not participate

(1) Gr's judgment obtained by default on 11.2.34.
Served on a person described as curator
of J.D. who was restrained as prodigal.
That judgment has not been served, as no
authority that service on tutor is good
service. Maj. Art. 994.

It is purely a restriction on disposal
of property. Personality of prodigal remains.

After judgment obtained, he removed attachment
having apparently been satisfied
Having held out to my client
that property released, my client
bought:

For 6 months, judgment left
without execution. -
Cannot be renewed after 6
months.

On 7.9.35 J.D. signed a power of attorney
to sell to Ibrahim Nijem + to one
Fauziel Tabara.
On 11.9. transfer took place

Having removed attachment on 14.12.34
he cannot now come + ask for
participation.

I ask C.D.O. to hold that judgment
cannot be the basis of execution. -

22.

± 644

Maj. 1616

never opposed
the judgment
not
cancellation

Art. 36 of
Ex. Law.

Bought on

7.11.34

Released on

13.12.34.

Produced to
Ex. Office
within 6
months.

b.2

Art. 143.

This confession
would make it
harder for J.D. in
default.

Pharmaceuticals are not participants

(1) The 1987. October by default a 11.2.24.

There is a great number of participants

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